

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PERNELL JAMES DYKES, TERESA CHUNG KAN, WILLIAM
T. NEWPORT, and JIAN TANG

Appeal 2009-007556
Application 11/025,228¹
Technology Center 2100

Decided: September 22, 2009

Before LANCE LEONARD BARRY, ST. JOHN COURTENAY, III., and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Application filed December 29, 2004. The real party in interest is International Business Machines Corporation.

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-13, which are all the claims remaining in the application, as claims 14-23 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

A. INVENTION

Appellants invented a method for providing a container managed persistent (CMP) enterprise java bean (EJB) framework which includes support for accessing multiple data sources within one deployment. (Spec. 20, Abstract.)

B. ILLUSTRATIVE CLAIMS

The appeal contains claims 1-13. Claims 1 and 7 are independent claims. Claims 1 and 7 are illustrative:

1. A method for accessing a database server among a plurality of database servers within a J2EE application server platform, comprising the steps of:

associating each of more than one data source with a respective resource reference;

identifying a mapping between an attribute of a container managed persistent enterprise java bean (CMP EJB) and the respective resource references;

determining based upon the identified mapping which of the more than one data sources to use to service a call by the CMP EJB to access one of the database servers; and

servicing the call by the CMP EJB by connecting to the determined which of the more than one data sources to access one of the database servers.

7. A method for accessing a database among a plurality of databases within an execution environment wherein each database is associated with a respective data source, comprising the steps of:

receiving a request from an executing container managed persistent enterprise java bean (CMP EJB) to access one of the plurality of databases;

selecting one of the data sources from among the respective data sources; and

connecting the CMP EJB to the selected one of the respective data sources to access the database associated with the selected data source.

C. REFERENCE

The sole reference relied upon by the Examiner as evidence in rejecting the claims on appeal is as follows:

Beust US 2004/0111701 A1 Jun. 10, 2004

D. REJECTION

The Examiner entered the following rejection which is before us for review:

Claims 1-13 are rejected under 35 U.S.C. § 102(e) as being anticipated by Beust.

II. FINDINGS OF FACT

The following findings of fact (FF) are supported by a preponderance of the evidence.

Beust

1. In Beust, “[a]nnotations are directives that contain information needed to create an EJB’s source files. . . . For example, annotations can be provided in a graphical user interface, a separate file, or created dynamically based on run-time properties a user has associated with an EJB.” (§ [0008].)

2. Beust discloses that “annotations can be described in terms of their attributes, their scope (e.g., class or method) and the type of EJB they are applicable to (e.g., message, stateless session, stateful session, entity, etc.) Annotations can also be adjacent to or associated with other Java™ elements such as fields or variables.” (§ [0013].)

3. Beust discloses that “a corresponding data field called ‘accountId’ would be defined upon deployment of the EJB. . . . [T]he annotation ‘@ejbgen:cmp-field’ specifies that the AccountId CMP field will be stored in column named ‘acct_id’ of a database upon deployment of the EJB.” (§ [0010].)

4. Beust discloses the annotation “ejb-ql The EJB QL request as it will appear in the deployment descriptor.” (P. 4.)

III. PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed. Cir. 1992)).

IV. ANALYSIS

Grouping of Claims

In the Brief:

Group I: Appellants argue claims 1 and 6 as a group (App. Br. 7-9). For claim 6, Appellants repeat the same argument made for claim 1. We will, therefore, treat claim 6 as standing or falling with claim 1.

Group II: Appellants argue claims 7, 9, and 13 as a group (App. Br. 10-11). For claims 9 and 13, Appellants repeat the same argument made for claim 7. We will, therefore, treat claims 9 and 13 as standing or falling with claim 7.

Group III: Appellants argue claims 2 and 10 as a group (App. Br. 11-12). For claim 10, Appellants repeat the same argument made for claim 2. Claims 11 and 12 depend from claim 10. We will, therefore, treat claims 10, 11, and 12 as standing or falling with claim 2.

Group IV: Appellants separately argue claim 3 (App. Br. 12).

Group V: Appellants argue claim 4 separately. (App. Br. 12).

Group VI: Appellants argue claim 5 separately. (App. Br. 13).

Group VII: Appellants separately argue claim 8. (App. Br. 13.)

See 37 C.F.R. § 41.37(c)(1)(vii). *See also In re Young*, 927 F.2d 588, 590 (Fed. Cir. 1991).

The Anticipation Rejection

We now consider the Examiner's rejection of the claims under 35 U.S.C. § 102(e) as being anticipated by Beust.

Group I: Claims 1 and 6

Appellants contend that “Beust, however, has nothing whatsoever to do with mapping an attribute of a CMP EJB to resources for multiple data sources, such that a data source may be dynamically selected during run-time based upon that mapping to service a call.” (App. Br. 7.)

Appellants contend that “all of the processes described in Beust are performed prior to deployment of an EJB, and as a result, having nothing to do with the run-time behavior of an EJB in an application server or other container.” (App. Br. 8.)

Appellants further contend that “the determination of an appropriate data source with which to connect is made in connection with ‘service[ing] a call by the CMP EJB to access one of the database server,’ an irrefutably run-time operation.” (App. Br. 9.)

The Examiner found that “Beust clearly disclosed the deployment of a single annotated description file (e.g. the Java™ Archive File “JAR” at Section: 0043) on a server (e.g., the Analyzer 8, Fig. 2) for generation of a plurality of Enterprise Java™ Beans (EJBs) in a running environment by using an existing user graphic interface tool.” (Ans. 8.)

Issue: Have Appellants shown that the Examiner erred in finding that Beust discloses “determining based upon the identified mapping which of the more than one data sources to use to service a call by the CMP EJB to access one of the database servers?”

In essence, Appellants contend that Beust fails to dynamically select a data source during run-time based upon mapping an attribute of a CMP EJB to resources for multiple data sources. We disagree.

For instance, Beust discloses that annotations that contain information needed to create an EJB source file can be created dynamically based on run-time properties a user has associated with an EJB (FF 1). Beust further discloses that annotations can be described in terms of the type of EJB they are applicable to (FF 2). In other words, Beust discloses a mapping between an attribute of a CMP EJB and resource references through the use of annotations, and that such annotations can be created during run-time.

Furthermore, we find that claim 1 does not require the “identifying a mapping step” to be performed during run-time, but rather that the mapping information be used to determine which data source to use to service a call. Thus, we find that Appellants’ arguments are not commensurate with the actual scope of instant claim 1. The claim does not require all of the steps to be performed subsequent to deployment of an EJB, particularly the steps for identifying a mapping and determining one data source to use. We find that these claimed steps may also be performed prior to run-time.

Thus, Appellants have not persuaded us of error in the Examiner’s finding of anticipation for representative claim 1. Therefore, we affirm the Examiner’s § 102 rejection of independent claim 1 and of claim 6, which falls therewith.

Group II: Claims 7, 9, and 13

Appellants contend that “there is nothing in the reference that is remotely related to the concept of selecting a data source from among

multiple data sources during run-time and in response to a request from a CMP EJB.” (App. Br. 11.)

The Examiner found that “Beust clearly disclosed that by using the required annotation definition ‘@ejbgen:cmp-field’ at col. 2 of the table, his system will map an attribute of a Container-Managed Persistence CMP EJB to resource references in column of a database for multiple data sources.” (Ans. 9.)

Issue: Have Appellants shown that the Examiner erred in finding that Beust discloses “receiving a request from an executing CMP EJB to access one of the plurality of databases and selecting one of the data sources from among the respective data sources?”

As noted *supra*, Beust discloses that annotations that contain information needed to create EJB source files can be created dynamically based on run-time properties a user has associated with an EJB (FF 1). Beust further discloses that an EJB QL request will appear in the deployment request (FF 4). In other words, Beust discloses multiple source files and an EJB request. Thus, we find Appellants’ arguments that there is nothing in the reference that is remotely related to selecting a data source in response to a request from a CMP EJB unpersuasive.

Thus, Appellants have not persuaded us of error in the Examiner’s finding of anticipation for representative claim 7. Therefore, we affirm the Examiner’s § 102 rejection of independent claim 7 and of claims 9 and 13, which fall therewith.

Group III: Claims 2, 10, 11, and 12

Appellants contend that “[t]here is nothing stated or implied in connection with the ‘EJB type’ column that relates to defining multiple resources references within a session EJB and as such, the Examiner has fallen far short of meeting the burden for establishing anticipation of claims 2 and 10.” (App. Br. 11-12.)

The Examiner found that Beust discloses “the EJB type column of the table starting at page 2-page 7.” (Ans. 4.)

Issue: Have Appellants shown that the Examiner erred in finding that Beust discloses “defining the respective resource references within a session EJB?”

Here, the Examiner has merely directed our attention to an “EJB Type” column in Beust and thus has not clearly shown and has left it up to us to speculate as to how this column in Beust defines resource references within a session EJB. We can only rule on the basis of the evidence that is provided in support of the rejection, and here we find it deficient. The allocation of burdens requires that the USPTO produce the factual basis for its rejection of an application under 35 U.S.C. § 102. *In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016 (CCPA 1967)). The one who bears the initial burden of presenting a prima facie case of unpatentability is the Examiner. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

Therefore, we find that the Examiner has *not* set forth a sufficient initial showing of anticipation, and we find that Appellants have shown error

in the Examiner's rejection of claims 2 and 10. Therefore, we reverse the rejection of claims 2 and 10. Claims 11 and 12 depend from claim 10 and therefore are also reversed.

Group IV: Claim 3

Appellants contend that there is “no relevance in this passage [page 6 of Beust] to the use of a java artifact to define multiple resource references.” (App. Br. 12.)

The Examiner found that “the use of @ejbgen:resource-ref at page 6” discloses the claimed defining the respective resource reference within a java artifact. (Ans. 5.)

Issue: Have Appellants shown that the Examiner erred in finding that Beust discloses “defining the respective resource references within a java artifact?”

Again, the Examiner merely directs our attention to a table entry that notes “specify the JNDI name of the resource” without providing any detail as to how this relates to java artifact, as required by claim 3. We can only rule on the basis of the evidence that is provided in support of the rejection, and here again we find it deficient.

Therefore, we find that the Examiner has *not* set forth a sufficient initial showing of anticipation, and we find that Appellants have shown error in the Examiner's rejection of claim 3. Therefore, we reverse the rejection of claim 3.

Group V: Claim 4

Appellants contend that “Beust does not disclose any storage of a mapping in an application server platform or execution environment . . .” (App. Br. 12.)

The Examiner found that section 0010 of Beust discloses storing a mapping in an application server platform (Ans. 5).

Issue: Have Appellants shown that the Examiner erred in finding that Beust discloses “a map is stored in the application server platform?”

Beust discloses defining data fields and storing CMP fields in a database upon deployment of the EJB (FF 3). Thus, Appellants’ contention that Beust does not disclose any storage of mapping information is unpersuasive.

Thus, Appellants have not persuaded us of error in the Examiner’s finding of anticipation for representative claim 4. Therefore, we affirm the Examiner’s § 102 rejection of claim 4.

Group VI: Claim 5

Appellants contend that:

nothing in these paragraphs [[0010] and 0011]] relate[] to a map stored in an application server platform or execution environment that includes multiple resource references mapped to different values of an attribute. Beust is directed to a pre-deployment method in which mappings are resolved prior to deployment
(App. Br. 13.)

The Examiner found that section 0010 of Beust discloses the features of claim 5 (Ans. 5).

Issue: Have Appellants shown that the Examiner erred in finding that Beust discloses that “the map defines which of the respective resource references to use depending on a value of the attribute?”

Here we find that the Examiner has merely directed our attention to section [0010] of Beust without clearly showing how such a section describes a value of an attribute, for example. Thus, the Examiner has not shown, and we do not readily find that Beust discloses that the map defines which of the resource references to use depending on a value of the attribute. We can only rule on the basis of the evidence that is provided in support of the rejection, and here again we find it deficient.

Therefore, we find that the Examiner has *not* set forth a sufficient initial showing of anticipation, and we find that Appellants have shown error in the Examiner’s rejection of claim 5. Therefore, we reverse the rejection of claim 5.

Group VII: Claim 8

Appellants contend that “Beust is directed to a pre-deployment method in which mappings are resolved prior to deployment, so [Appellants] submit[] that Beust does not disclose any evaluation of an attribute of a CMP EJB to identify a particular data source.” (App. Br. 13.)

The Examiner has not specifically addressed claim 8 in the Answer. Thus, we find that the Examiner has not set forth an initial showing of

anticipation of claim 8. Therefore, we find that Appellants have shown error in the Examiner's rejection of claim 8. As such, we reverse the rejection of claim 8.

V. CONCLUSIONS

We conclude:

(1) Appellants have *not* shown that the Examiner erred in rejecting claims 1, 4, 6, 7, 9, and 13; and

(2) Appellants have shown that the Examiner erred in rejecting claims 2, 3, 5, 8, 10, 11 and 12.

VI. DECISION

In view of the foregoing discussion:

(1) We affirm the Examiner's rejection of claims 1, 4, 6, 7, 9, 11, and 13; and

(2) We reverse the Examiner's rejection of claims 2, 3, 5, 8, 10, and 12.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED-IN-PART

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